

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Mimi Corp & Mary Gargano	:	
& the Estate of Mary Gargano	:	CIVIL ACTION
Plaintiffs,	:	
v.	:	
	:	
Underwriters at Lloyds, London, England	:	No.: 02-CV-2726
Defendant,	:	
	:	
v.	:	
	:	
Young Adjustment Company, Inc. and	:	
Gregory R. Coe	:	
Additional Defendants.	:	

ORDER

AND NOW, this day of , 2003, upon consideration of the Motion of Defendant Underwriters at Lloyds, London, England, and responses thereto, it is hereby ORDERED and DECREED that said Motion is GRANTED. It is hereby further ORDERED that the plaintiffs, Francis Gargano and Henry Gargano are to appear for oral depositions within twenty (20) days of the date of this Order or risk the imposition of further sanctions.

BY THE COURT:

J.

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Defendant,	:	
	:	
v.	:	
	:	
Young Adjustment Company, Inc. and	:	
Gregory R. Coe	:	
Additional Defendants.	:	

MOTION OF DEFENDANT UNDERWRITERS AT LLOYDS, LONDON, ENGLAND
TO COMPEL THE ORAL DEPOSITION OF PLAINTIFFS
FRANCIS GARGANO and HENRY GARGANO

Defendant Underwriters at Lloyds, London, England hereby files the within Motion to Compel Depositions pursuant to Federal Rule of Civil Procedure 37(d) and in support thereof asserts as follows:

1. This lawsuit arises from a claim for insurance proceeds from a fire loss occurring on May 12, 2000 at a restaurant known as Mimi's, located at 9242 Delaware Avenue, Philadelphia, Pennsylvania.
2. Francis Gargano was an owner and/or employee of plaintiff Mimi Corp., the restaurant known as Mimi's involved in this matter.
3. Henry Gargano was an owner and/or employee of plaintiff Mimi Corp., the restaurant known as Mimi's involved in this matter.
4. Defendant, Underwriters at Lloyds, London, England originally scheduled the deposition of Francis Gargano for October 9, 2002. Francis Gargano failed to appear for his

deposition. A copy of the notice is attached as Exhibit "A."

5. Defendant, Underwriters at Lloyds, London, England rescheduled Francis Gargano's deposition for January 29, 2003. Again, Mr. Gargano failed to appear for his deposition. A copy of the notice is attached as Exhibit "B."

6. Francis Gargano's deposition was rescheduled for February 20, 2003. Mr. Gargano did not appear for his deposition. A copy of the notice is attached as Exhibit "C."

7. Defendant, Underwriters at Lloyds, London, England originally scheduled the deposition of Henry Gargano for October 9, 2002. Henry Gargano failed to appear for his deposition. See Exhibit "A."

8. Defendant, Underwriters at Lloyds, London, England rescheduled Henry Gargano's deposition for January 29, 2003 at which time Mr. Gargano again failed to appear for his deposition. A copy of the notice is attached as Exhibit "D."

9. Henry Gargano's deposition was rescheduled for February 20, 2003. Mr. Gargano failed to appear for his deposition. A copy of the notice is attached as Exhibit "E."

10. Both Francis and Henry Gargano are under the control of the plaintiffs in this matter.

11. Francis Gargano and Henry Gargano's deposition testimony is necessary to permit defendant Underwriters at Lloyds, London, England to properly prepare a defense for trial.

12. All discovery in this matter is to be completed by July 2003.

WHEREFORE, defendant, Underwriters at Lloyds, London, England, respectfully requests this Honorable Court to enter an Order compelling Francis Gargano and Henry Gargano to appear for depositions within twenty (20) days from the date of this Order or risk imposition of further sanctions as allowed under Federal Rule of Civil Procedure 37.

Respectfully submitted,

GIBLEY AND McWILLIAMS, P.C.

By: _____

John Reed Evans, Esquire
Attorney for Defendant,
Underwriters at Lloyds, London, England
Identification Number: 61899
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Dated:

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	:	
v.	:	
	:	
Young Adjustment Company, Inc. and	:	
Gregory R. Coe	:	
Additional Defendants.	:	

CERTIFICATE OF SERVICE

I, John Reed Evans, Esquire, hereby certify that a copy of the attached Motion of Defendant Underwriters at Lloyds, London, England To Compel Plaintiff's Deposition has been served upon the following individual by first class, United States mail, postage pre-paid, this 9th day of April, 2003.

Norman W. Briggs, Esq.
Frey Petrakis Deeb Blum Briggs & Mitts, P.C.
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Philadelphia, PA 19103

Michael Stack, Jr., Esq
Stack & Stack, P.C.
1600 Locust Street
Philadelphia, PA 19103

GIBLEY and McWILLIAMS, P.C.

By: _____
John Reed Evans, Esquire
Attorney for Defendant,
Underwriters at Lloyds, London, England
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Young Adjustment Company, Inc. and	:	
Gregory R. Coe	:	
Additional Defendants.	:	

CERTIFICATE OF GOOD FAITH

The undersigned counsel for movant hereby certifies and attests that he has contacted opposing counsel regarding the discovery matter contained in the foregoing discovery motion in an effort to resolve the specific discovery dispute at issue and, further, that despite all counsel's good faith attempts to resolve the dispute, counsel have been unable to do so.

CERTIFIED TO THE COURT BY:

John Reed Evans, Esquire
Attorney for Defendant,
Underwriters at Lloyds, London, England